

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

JING GAO, et al.,

Plaintiffs,

vs.

BLUE RIDGE LANDFILL TX, LP,

Defendant.

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Civil Action No. 3:16-cv-00323

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**JOINT MOTION FOR ENTRY OF PROTECTIVE ORDER UNDER FEDERAL  
RULE OF EVIDENCE 502(d)**

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Plaintiffs and Defendant, by and through their undersigned attorneys, hereby jointly move the Court for an order of protection under Rule 502(d) of the Federal Rules of Evidence. In support thereof, the parties state as follows:

1. Pursuant to Rule 502(d), the parties seek entry of an order providing that the attorney-client privilege and work-product protection is not waived by disclosure of information in documents that are subject to an objection on the basis of the attorney-client privilege and/or work-product protection.

2. Rule 502(d) provides: “(d) Controlling Effect of a Court Order. A federal court may order that the privilege or protection is not waived by disclosure connected with the litigation pending before the court – in which event the disclosure is also not a waiver in any other federal or state proceeding.”

3. While the parties have filed a separate joint motion for entry of a Stipulated Protective Order pursuant to Federal Rule of Civil Procedure 26(c), the parties also seek this limited protective order pursuant to Rule 502(d) because Federal Rule of Evidence 502(e) provides that a “clawback agreement” reached by the parties under Rule 502(d) is not effective in other actions unless it is incorporated into a court order. *See* Fed. R. Evid. 502(e) (“An agreement on the effect of disclosure in a federal proceeding is binding only on the parties to the agreement, unless it is incorporated into a court order.”).

4. Attached as Exhibit A hereto is a copy of the proposed Rule 502(d) Order which the parties jointly request the Court enter in this action.

WHEREFORE, Plaintiffs and Defendants respectfully request that the Court grant this Motion and enter a protective order pursuant to Federal Rule of Evidence 502(d) providing that the attorney-client privilege and work-product protection is not waived by disclosure of information in documents that are otherwise subject to an objection on the basis of attorney-privilege or work-product protection.

Dated: June 12, 2017

BY: /s/ Brenton J. Allison

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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 12<sup>th</sup> day of June, 2017 a true and accurate copy of the foregoing pleading was served via the U.S. District Court ECM/ECF system.

/s/ Robert G. Rooney

Robert G. Rooney  
Attorney for Defendant